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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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09/899,091

07/05/2001

Kornelis A. Schouhamer Immink

PHN 14, 746R

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11/06/2008

PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

JEAN PIERRE, PEGUY

ART UNIT

PAPER NUMBER

2819

MAIL DATE

DELIVERY MODE

11/06/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

09/899,091

**Applicant(s)**SCHOUHAMER IMMINK,  
KORNELIS A.**Examiner**

Peguy JeanPierre

**Art Unit**

2819

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 6/26/2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3,6,7 and 10-145 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,6,7 and 10-145 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Reissue Applications***

1. The reissue oath/declaration filed with this application is defective because the error which is relied upon to support the reissue application is not an error upon which a reissue can be based. See 37 CFR 1.175(a)(1) and MPEP § 1414.

Applicant alleges that changing the limitation of "signal value" of claim 1 to "logical value" has broadened the reissue application. The Examiner disagrees. A "signal" can have different format and be of different type, namely analog, digital, discrete, logical, modulated, coded etc...whereas a logical value can be either high or low. In other words, a signal value includes a logical value. Hence, the limitation of a logical value does not necessarily broaden the claim as suggested in the Oath and declaration and therefore, it does set forth a reissuable error under 35 USC 251.

Furthermore, the allegation that the patent is defective by "claiming less than the patentee had a right to claim " does not mean that there are too few claims, but rather the patent claims are not broad enough to protect the invention. Hence, the claims as amended and the errors that applicant relied upon do not broaden the claims. Hence reissue of the patent application cannot be granted based on this above mentioned error. It is to be noted that claims added to a reissue application must correct one or more presently existing errors in the scope of coverage provided by the patent claims or must correct another claim defect that would render the claims inoperative or invalid, unless another reissuable error under 35 USC 251 is identified and is being corrected in

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the reissue application (See MPEP 1402 8<sup>th</sup> ED., Rev5 for errors correctible by reissue under 35 USC 251).

In addition, the reissue Oath and Declaration must include a statement that the original patent is to be wholly or partly inoperative or invalid. That is, absence of the change in the original claims of signal value to logical value the original patent will be wholly or partly inoperative or invalid.

2. Claims 1-3, 6-7, 10-129, 130-145 are rejected as being based upon a defective reissue Oath & Declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

The nature of the defect(s) in the Oath and Declaration is set forth in the discussion above in this Office action.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peguy JeanPierre whose telephone number is (571) 272-1803. The examiner can normally be reached from 8:00-6:30 PM Monday-Thursday. The examiner's fax phone number is (571) 273-1803. If attempts to reach the Examiner is unsuccessful, the examiner's supervisor R. Barnie can be reached at (571) 272-7492.

/Peguy JeanPierre/  
Primary Examiner, Art Unit 2819